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January 10, 2022

VIA ECF

Honorable Barbara Moses
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: *Morgan Art Foundation Ltd. v. McKenzie, 18-cv-04438 (AT)*
Joint Letter re Gonzalez Deposition Pursuant to Order at ECF 474

Dear Judge Moses:

In accordance with the Court’s Order (ECF 474), Defendant Michael McKenzie d/b/a American Image Art (herein, “McKenzie”) and Plaintiff Morgan Art Foundation Limited (“MAF”) jointly report that the deposition of Osvaldo Gonzalez was taken on Friday, January 7, 2022. Counsel for McKenzie, MAF, and for the Estate of Robert Indiana appeared and questioned the witness.

The deposition was completed except as to one line of questioning. MAF sought to question Mr. Gonzalez about certain attorney-client communications between McKenzie and other counsel that occurred this past summer to which McKenzie objected and asserted his privilege to keep his attorney-client communications confidential. MAF contends that the privilege has been waived or forfeited. The parties will further confer to determine if they can resolve the matter or if MAF will be seeking to file a motion to compel and to reopen the Gonzalez deposition.

Respectfully submitted,

/s/ Bridget A. Zerner
Bridget A. Zerner
Counsel for Michael McKenzie

/s/ Luke Nikas
Luke Nikas
Attorney for Morgan Art Foundation

cc: All Counsel of Record via ECF
Non-party Osvaldo Gonzalez via Email